

CPEL0151977P

Patent Office of the People's Republic of China

Address : Receiving Section of the Chinese Patent Office, No. 6 Tucheng Road West, Haidian District, Beijing. Postal code: 100088

Applicant	NGK INSULATORS LTD.			Seal of Examiner	Date of Issue
Agent	China Patent Agent (H.K.) Ltd.				Dec19,2003
Patent Application No.	00803811.2	Application Date	October 12, 2000	Exam Dept.	
Title of Invention	HIGH PRESSURE DISCHARGE LAMP ARC TUBE AND METHOD OF PRODUCING THE SAME				

First Office Action

(PCT application entering into the national phase)

1. ☒ Under the provision of Art. 35, para. 1 of the Patent Law, the examiner has made an examination as to substance of the captioned patent application for invention upon the request for substantive examination filed by the applicant .

☐ Under the provision of Art. 35, para. 2 of the Patent Law, the Chinese Patent Office has decided to conduct an examination of the captioned patent application for invention on its own initiative.
2. ☒ The applicant requests that
the filing date Oct15,1999 at the JP Patent Office be taken as the priority date of the present application,
the filing date Oct5,2000 at the JP Patent Office be taken as the priority date of the present application,
the filing date at the Patent Office be taken as the priority date of the present application.
3. ☐ The following amended documents submitted by the applicant cannot be accepted for failure to conform with Art. 33 of the Patent Law:
☐ the Chinese version of the annex to the international preliminary examination report.
☐ the Chinese version of the amended documents submitted according to the provision of Rule 19 of the Patent Cooperation Treaty.
☐ the amended documents submitted according to the provision of Rule 28 or Rule 41

of the Patent Cooperation Treaty.

- ☐ the amended documents submitted according to the provision of Rule 51 of the Implementing Regulations of the Patent Law.

See the text portion of this Office Action for detailed reasons why the amendment cannot be accepted.

4. ☒ Examination is conducted on the Chinese version of the initially-submitted international application.

- ☐ Examination is conducted on the following document(s):

☐ page _____ of the description, based on the Chinese version of the initially-submitted international application documents;

page _____ of the description, based on the Chinese version of the annex to the international preliminary examination report;

page _____ of the description, based on the amended documents submitted according to the provision of Rule 28 or Rule 41 of the Patent Cooperation Treaty;

page _____ of the description, based on the amended documents submitted according to the provision of Rule 51 of the Implementing Regulations of the Patent Law.

☐ claim(s) _____, based on the Chinese version of the initially-submitted international application documents;

claim(s) _____, based on the Chinese version of the amended documents submitted according to the provision of Rule 19 of the Patent Cooperation Treaty;

claim(s) _____, based on the Chinese version of the annex to the international preliminary examination report;

claim(s) _____, based on the amended documents submitted according to the provision of Rule 28 or Rule 41 of the Patent Cooperation Treaty;

claim(s) _____, based on the amended documents submitted according to the provision of Rule 51 of the Implementing Regulations of the Patent Law.

☐ Fig(s) _____, based on the Chinese version of the initially-submitted international application documents;

Fig(s) _____, based on the Chinese version of the annex to the international preliminary examination report;

Fig(s) _____, based on the amended documents submitted according to the provision of Rule 28 or Rule 41 of the Patent Cooperation Treaty;

Fig(s) _____, based on the amended documents submitted according to the provision of Rule 51 of the Implementing Regulations of the Patent Law.

5. ☒ The following reference document(s) is/are cited in this Office Action (its/their serial number(s) will continue to be used in the subsequent course of examination):

Serial No.	Number or Title(s) of Document(s)	Date of Publication (or filing date of interfering application)
1	CN1110003A	Date: Oct 11, 1995
2		Date
3		Date
4		

6. Concluding comments on the examination:

☒ On the description:

- ☐ What is stated in the application comes within the scope of that no patent right shall be granted as prescribed in Art. 5 of the Patent Law.
- ☐ The description is not in conformity with the provision of Art. 26, para. 3 of the Patent Law.
- ☒ The description is not in conformity with the provision of Rule 18 of the Implementing Regulations.

☒ On the claims:

- ☐ Claim(s) _____ come(s) within the scope of that no patent right shall be granted as prescribed in Art. 25 of the Patent Law.
- ☐ Claim(s) _____ has/have no novelty as prescribed in Art. 22, para. 2 of the Patent Law.
- ☒ Claim(s) 1,3 has/have no inventiveness as prescribed in Art. 22, para. 3 of the Patent Law.
- ☐ Claim(s) _____ is/are not in conformity with the provision of Art. 31, para. 1 of the Patent Law.
- ☒ Claim(s) 1,2,4 is/are not in conformity with the provisions of Rules 20 to 23 of the Implementing Regulations.
- ☐ Claim(s) _____ is/are not in conformity with the provision of Art. 9 of the Patent Law.
- ☐ Claim(s) _____ is/are not in conformity with the provision of Rule 12, para. 1 of the Implementing Regulations.

See the text portion of this Office Action for detailed analysis of the above concluding comments.

7. Based on the above concluding comments, the examiner deems that

- ☐ the applicant should make amendment to the application document(s) according to the requirements put forward in the text portion of this Office Action.
- ☒ the applicant should expound in his/its observations why the captioned patent application is patentable and make amendment to what is not in conformity with the provisions pointed out in the text portion of this Office Action, otherwise, no patent right shall be granted.
- ☐ the patent application contains no substantive content(s) for which a patent right may be granted, if the applicant has no sufficient reason(s) to state or his/its stated reason(s) is/are not sufficient, said application will be rejected.
- ☐

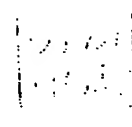
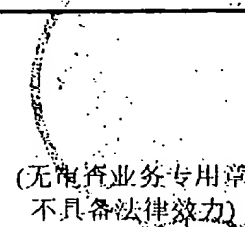
8. The applicant should note the following items:

- (1) Under Art. 37 of the Patent Law, the applicant should submit his/its observations within **four** months from the date of receipt of this Office Action; if, without any justified reason(s), the time limit for making written response is not met, said application shall be deemed to have been withdrawn.
- (2) The amendment made by the applicant to said application should be in conformity with the provision of Art. 33 of the Patent Law, the amended text should be in duplicate and its form should conform with the related provisions of the Guide to Examination.
- (3) If no arrangement is made in advance, the applicant and/or the agent shall not come to the Chinese Patent Office to have an interview with the examiner.
- (4) The observations and/or amended text should be sent to the Receiving Section of the Chinese Patent Office by mail or by personal delivery, if not sent to the Receiving Section by mail or by personal delivery, the document(s) will have no legal effect.**

9. This Office Action consists of the text portion totalling 2 page(s) and of the following attachment(s):

- ☒ 1 copy(copies) of the reference document(s) totalling 14 page(s).
- ☐

中华人民共和国国家知识产权局

邮政编码: 香港湾仔港湾道 23 号鹰君中心 22 字楼 中国专利代理(香港)有限公司 刘宗杰, 叶恺东	 审查员	 (无审查业务专用章 不具法律效力)
申请号: 00803811.2	部门及通知书类型: 3--D	发文日期:
申请人: 日本碍子株式会社		
发明名称: 高压放电灯用发光管及其制造方法		

第一次审查意见通知书 (进入国家阶段的 PCT 申请)

0151977

1. ☒ 申请人提出了实审请求, 根据专利法第 35 条第 1 款的规定, 审查员对上述发明专利申请进行实质审查。
☐ 根据专利法第 35 条第 2 款的规定, 国家知识产权局决定自行对上述发明专利申请进行审查。
2. ☒ 申请人要求以在:

JP	专利局的申请日	1999 年 10 月 15 日	为优先权日,
JP	专利局的申请日	2000 年 10 月 5 日	为优先权日,
	专利局的申请日		为优先权日,

京办完成

3. ☐ 申请人提交的下列修改文件不符合专利法第 33 条的规定, 因而不能接受:
- ☐ 国际初步审查报告附件的中文译文。
 - ☐ 依据专利合作条约第 19 条规定所提交的修改文件的中文译文。
 - ☐ 依据专利合作条约第 28 条或 41 条规定所提交的修改文件。
 - ☐ 依据专利法实施细则第 51 条规定所提交的修改文件。

修改不能被接受的具体理由见通知书正文部分。

4. ☒ 审查是针对原始提交的国际申请的中文译文进行的。
☐ 审查是针对下述申请文件进行的:

03 MAY 2004

说明书	第_____页,	按照原始提交的国际申请文件的中文译文;	
	第_____页,	按照国际初步审查报告附件的中文译文;	
	第_____页,	按照依据专利合作条约第 28 条或 41 条规定所提交的修改文件;	
	第_____页,	按照依据专利法实施细则第 51 条规定所提交的修改文件。	
权利要求	第_____项,	按照原始提交的国际申请文件的中文译文;	
	第_____项,	按照依据专利合作条约第 19 条规定所提交的修改文件的中文译文。	
	第_____项,	按照国际初步审查报告附件的中文译文;	
	第_____项,	按照依据专利合作条约第 28 条或 41 条所提交的修改文件;	
	第_____项,	按照依据专利法实施细则第 51 条规定所提交的修改文件。	
附图	第_____页,	按照原始提出的国际申请文件的中文译文;	
	第_____页,	按照国际初步审查报告附件的中文译文;	
	第_____页,	按照依据专利合作条约第 28 条或 41 条所提交的修改文件;	
	第_____页,	按照依据专利法实施细则第 51 条规定所提交的修改文件。	

5. ☒ 本通知书引用下述对比文献 (其编号在今后的审查过程中继续沿用) :

编号	文件号或名称	公开日期 (或抵触申请的申请日)
1	CN1110003A	1995 年 10 月 11 日
2		____ 年 ____ 月 ____ 日
3		____ 年 ____ 月 ____ 日
4		____ 年 ____ 月 ____ 日

6. 审查的结论性意见:

☒ 关于说明书:

☐ 申请的内容属于专利法第 5 条规定的不予授予专利权的范围。

☐ 说明书不符合专利法第 26 条第 3 款的规定。

☒ 说明书不符合专利法实施细则第 18 条的规定。

☐

☒ 关于权利要求书:

☐ 权利要求____属于专利法第 25 条规定的不予授予专利权的范围。

☐ 权利要求____不具备专利法第 22 条第 2 款规定的新颖性。

☒ 权利要求 1, 3 不具备专利法第 22 条第 3 款规定的创造性。

☐ 权利要求____不具备专利法第 22 条第 4 款规定的实用性。

☐ 权利要求____不符合专利法第 26 条第 4 款的规定。

☐ 权利要求____不符合专利法第 31 条第 1 款的规定。

☒ 权利要求 1, 2, 4 不符合专利法实施细则第 20 条至第 23 条的规定。

☐ 权利要求____不符合专利法第 9 条的规定。

☐ 权利要求____不符合专利法实施细则第 13 条第 1 款的规定。

☐

上述结论性意见的具体分析见本通知书的正文部分。

7. 基于上述结论性意见, 审查员认为:

☐ 申请人应依照通知书正文部分提出的要求, 对申请文件进行修改。

☒ 申请人应在意见陈述书中论述其专利申请可以被授予专利权的理由, 并对通知书正文部分中指出的不符合规定之处进行修改, 否则将不能授予专利权。

☐ 专利申请中没有可以被授予专利权的实质性内容, 如果申请人没有陈述理由或者陈述理由不充分, 其申请将被驳回。

☐

8. 申请人应注意下述事项:

(1) 根据专利法第 37 条的规定, 申请人应在收到本通知书之日起的 肆 个月内陈述意见, 如果申请人无正当理由逾期不答复, 其申请将被视为撤回。

(2) 申请人对其申请的修改应符合专利法第 33 条的规定, 修改文本应一式两份, 其格式应符合审查指南的有关规定。

(3) 申请人的意见陈述书和/或修改文本应邮寄或递交给中国专利局受理处, 凡未邮寄或递交给受理处的文件不具备法律效力。

(4) 未经预约, 申请人和/或代理人不得前来中国专利局与审查员举行会晤。

9. 本通知书正文部分共有 2 页, 并附有下列附件:

☒ 引用的对比文件的复印件共 1 份 7 页。

☐

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第一次审查意见通知书正文

1. 权利要求 1 不具备创造性, 不符合中国专利法第 22 条第 3 款的规定。对比文件 1 公开了一种具有陶瓷放电管的高压放电灯, 并具体公开了以下的技术特征 (参见该对比文件说明书第 1 页倒第 3-1 行, 第 6 页第 13-23 行, 第 9 页第 3 段, 附图 1): 圆柱形陶瓷放电管 6 由掺杂 MgO 等的多晶氧化铝陶瓷组成, 放电管的两端 7、8 通过诸如主要由氧化铝制成的陶瓷塞 (即本申请中的毛细管部) 9 密封, 气密的铌连通件 10 通过该陶瓷塞伸进放电管内, 达到电极。塞子可由与放电管同样的材料或类似的材料制成。该权利要求所要求保护的技术方案与该对比文件所公开的技术内容相比, 其区别仅在于“毛细管部的氧化铝的平均粒径为 $10\mu\text{m}$ - $25\mu\text{m}$ ”。然而, 为 $10\mu\text{m}$ - $25\mu\text{m}$ 的氧化铝粒径或者平均粒径大小, 属于本领域的常规数据, 对于本领域的技术人员来说, 在该对比文件的基础上利用本领域的一般知识来获得该权利要求所要求保护的技术方案, 是不需要付出创造性劳动的, 因此该权利要求不具备突出的实质性特点和显著的进步, 不具备创造性。

2. 权利要求 3 中的附加技术特征已公开于对比文件 1 中 (参见对比文件 1 说明书第 9 页第 3 段), 因而该附加技术特征无助于该权利要求创造性的确立, 该权利要求不具备突出的实质性特点和显著的进步, 不具备中国专利法第 22 条第 3 款所规定的创造性。

3. 权利要求 2 中的“1.5 倍以上”是一种没有规定上限的倍数关系, 这导致该权利要求请求保护的技术方案不清楚, 不符合中国专利法实施细则第 20 条第 1 款的规定。作为毛细管部与管部中的氧化镁等含量间的倍数关系, 只有在一定范围内时才能实现该申请说明书中所述的发明目的, 申请人应按照说明书实施例中的记载 (参见说明书第 3 页第 4-9 行), 清楚地说明上述上限的具体数值。

4. 按照该申请说明书中的记载, 为了解决现有技术中存在的易产生裂纹的

问题,特在毛细管中加入为管部的 1.5-25 倍的氧化镁、氧化钇、氧化锆、氧化铪、氧化镧之一或其混合物,并适当改变烧制温度来减小平均粒径,提高毛细管的强度,从而解决上述技术问题的。因此,上述有关毛细管与管部中氧化镁等的倍数关系是解决上述技术问题所必不可少的技术特征。当前的独立权利要求 4 缺少解决技术问题的必要技术特征,不符合实施细则第 21 条第 2 款的规定。应修改。

5. 权利要求 1 和 4 中的“管部和毛细管共同由氧化铝或以氧化铝为主要成分的陶瓷形成”的中文表述不准确,申请人应修改,以符合中国专利法实施细则第 20 条第 1 款的规定。

6. 说明书正文部分中多处出现引用权利要求的表述(参见说明书第 1 页第 32 行;第 2 页第 4、8、10 行,第 4 页第 19、21 行),不符合中国专利法实施细则第 18 条第 3 款的规定,应修改。

7. 说明书中的小标题的表述不符合中国专利法实施细则第 18 条第 2 款的规定,也应修改。

8. 基于上述理由,该申请按目前的文本还不能被授予专利权。如果申请人按照本通知书提出的审查意见进行修改,克服上述缺陷,则该申请可望被授予专利权,否则该申请将被驳回。请申请人注意,对申请文件的修改应当符合中国专利法第 33 条的规定,不得超出原说明书和权利要求书记载的范围,并且在提交修改文本时应提交相应的修改草稿。

审 查 员 汤 志 明